

CHAPTER NO. 352

HOUSE BILL NO. 1806

By Representatives Rinks, Coleman, Henri Brooks, Larry Turner

Substituted for: Senate Bill No. 1782

By Senator Haynes

AN ACT to amend Tennessee Code Annotated, Title 2, Chapter 5; Title 2, Chapter 6 and Title 2, Chapter 7, relative to elections.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF TENNESSEE:

SECTION 1. Tennessee Code Annotated, Section 2-7-112(a), is amended by deleting subdivision (3) in its entirety and substituting instead the following language:

(3)

(A) A person shall be entitled to vote a provisional ballot under the procedures of this section if the voter claims to be properly registered in the county and eligible to vote at the precinct in the election, but whose eligibility cannot be determined by the computer signature list or by examination of the permanent registration records on file with the county election commission.

(i) If the election official cannot determine that the voter's name should have been placed on the precinct's computer signature list, then the voter shall complete an original voter registration application. At the time of registration and pursuant to section 3 of this act, the voter shall present verification of the residential address under which the person desires to vote.

(ii) After the voter has completed the voter registration application and supplied verification of his or her residential address, the voter shall complete an application for ballot pursuant to this section.

(iii) Upon completion of the application for ballot, the voter shall be given a provisional ballot and provisional ballot envelope. The provisional ballot envelope shall be of a different color from absentee ballot envelopes and shall bear a detachable slip that contains the provisional ballot affidavit. The provisional ballot affidavit shall contain the voter's printed name, social security number, date of birth, signature and any other identifying information deemed necessary by the coordinator of elections to satisfy the requirements of this section and to prevent fraudulent registration and voting.

(iv) Both the voter registration application and the application for ballot shall be deposited in the provisional ballot box. Nothing in this section shall be construed to allow election day voter registration.

(v) Pursuant to § 2-7-114(b) and (c), the voter shall vote the provisional ballot. Any county utilizing punchcard or optiscan technology shall process their ballots pursuant to rules promulgated by the state coordinator of elections. The provisions of § 2-7-116 shall govern any voter needing assistance.

(vi) Along with the voter registration applications and the applications for ballot completed by provisional voters, all provisional ballots that have been cast shall remain sealed and locked in the absentee ballot box for return to the county election commission at the close of polls.

(B)

(i) All provisional ballots shall be counted at the county election commission office by a separate central absentee ballot counting board that has been appointed in like manner to the central absentee ballot counting board established under § 2-6-302 and known as the central provisional ballot counting board. Upon completion of the counting of the absentee ballots, the county election commission may designate the central absentee ballot counting board established under § 2-6-302 as the central provisional ballot counting board. If the county election commission determines that there are fewer than one hundred (100) absentee and provisional ballots to be counted, the county election commission may act as the central provisional ballot counting board without additional compensation. When provisional ballots have been cast utilizing punchcard or optiscan technology, the counting of the provisional ballots shall be pursuant to rules promulgated by the state coordinator of elections.

(ii) After the delivery of the absentee ballot boxes containing provisional ballots to the county election commission, the central provisional ballot counting board shall unlock and open each absentee ballot box from the polling places in the presence of a majority of the judges.

(iii) The central provisional ballot counting board shall examine the records of the county election commission and the records of the Tennessee departments of health, human services, mental health and retardation, safety and veterans affairs with respect to all provisional ballots. The central provisional ballot counting board shall then determine if the person voting that ballot was entitled to vote and met the statutory requirements for registration at the precinct where the person cast a vote in the election. The central provisional ballot counting board shall also determine that the person has not already cast a ballot in the election.

(iv) If the central provisional ballot counting board determines that the person should have been registered to vote and met the statutory requirements for registration in the precinct where the voter cast the ballot and the voter has not cast a ballot in the election in a different precinct, then the central provisional

ballot counting board shall remove the provision ballot affidavit from the provisional ballot envelope and place the sealed ballot with all other provisional ballots that have been determined to be countable.

(v) If the central provisional ballot counting board determines that the person should not have been registered to vote in the precinct where the voter cast the ballot or that the voter has previously cast a ballot in the election in a different precinct, the provisional ballot envelope shall not be opened nor its provisional ballot affidavit removed, but it shall be marked "Rejected" across its face with the reason for rejection written on it and signed by at least two (2) members of the central provisional ballot counting board. It shall then be placed in the container of rejected absentee ballots. A list shall be made of such rejected ballots, and the administrator shall notify the voters by mail of the rejection and the reason for such rejection.

(C)

(i) The counting of all provisional ballots must be completed within forty-eight (48) hours of the close of polls on election day. If the county election commission determines that the counting of provisional ballots cannot be completed by the designated time, the state coordinator of elections may grant the county an extension of time and designate a time that shall be no later than the second Monday after the election.

(ii) If the county election commission determines that the counting of provisional ballots cannot be completed during the night of election day and upon the close of each counting session, the absentee ballot boxes containing the provisional ballots must be locked and sealed in the same manner established in § 2-6-311. The ballot boxes may not be unlocked except when the central provisional ballot counting board is performing its duties in compliance with this section.

SECTION 2. Tennessee Code Annotated, Section 2-7-112(c), is amended by deleting the subsection in its entirety and substituting instead the following language:

(c) For purposes of comparing the person's signature on the application for ballot, "evidence of identification" shall be a valid voter's registration certificate, Tennessee driver license, social security card, credit card bearing the applicant's signature or other document bearing the applicant's signature.

SECTION 3. Tennessee Code Annotated, Section 2-7-112, is amended by adding the following as a new, appropriately designated subsection:

(d) For purposes of registering a person to vote pursuant to subsection (a)(3), "verification of residential address" shall include, but is not limited to, a Tennessee driver license, a residential lease agreement, a utility bill or other document bearing the applicant's residential address. Such verification may be on the same or different document from those listed herein in subsection (c).

SECTION 4. Tennessee Code Annotated, Section 2-7-114(c), is amended by designating the existing language as subdivision (1) and by adding the following language as subdivision (2):

(2) If the voter is voting pursuant to § 2-7-112(a)(3), the voter shall state the voter's name and present the folded ballot to the judge assigned to receive and deposit the provisional ballots. The judge shall compare the provisional ballot number on the stub with the provisional ballot number on the voter's ballot application. The judge shall file all ballot applications in the order in which they are received. If the provisional ballot numbers are the same, the judge shall tear off and destroy the provisional ballot stub and deposit the provisional ballot in the provisional ballot envelope which contains the provisional ballot affidavit. The judge shall assure that the provisional ballot affidavit has been completed and signed by the voter. The provisional ballot, in its envelope, shall be deposited in an absentee ballot box that satisfies the requirements of the absentee ballot boxes and has been locked pursuant to § 2-6-311.

SECTION 5. Tennessee Code Annotated, Section 2-7-124(a), is amended by adding after the words "in Tennessee" the following language:

and did not vote a provisional ballot

SECTION 6. Tennessee Code Annotated, Section 2-7-131, is amended by adding the following as a new, appropriately numbered subsection:

(f)

(1) Notwithstanding the provisions of subsections (a) through (d), the county election commission may instruct the officer of elections and a judge of a different political party to transport the locked ballot box or boxes containing voted paper ballots to the county election commission office to have such paper ballots counted by the central absentee ballot counting board pursuant to § 2-6-302. The central absentee ballot counting board of this subsection may be the same members as a counting board that has already been appointed in like manner to the absentee ballot counting board established under § 2-6-302 or it may contain different members that have been appointed in like manner to such a board. The county election commission may only exercise this option if the ballot box or boxes used in the polling place satisfy the requirements of the absentee ballot boxes and have been locked pursuant to § 2-6-311.

(2) Where the write-in feature of a direct recording electronic voting machine has been used, the county election commission may instruct the officer of elections and a judge of a different political party to transport the locked ballot box or boxes containing the voting machine printer tape containing the write-in names to the county election commission office to have such paper ballots counted by the central absentee ballot counting board pursuant to § 2-6-302. The central absentee ballot counting board of this subsection may be the same members as a counting board that has already been appointed in like manner to the absentee ballot counting board established under § 2-6-302 or it may contain different members that have been appointed in like manner to such a board.

SECTION 7. Tennessee Code Annotated, Section 2-6-302(b), is amended by adding between the words "absentee" and "ballots" the words "and provisional".

SECTION 8. This act shall take effect July 1, 2003, the public welfare requiring it.

PASSED: May 27, 2003



JIMMY RAIFEH, SPEAKER
HOUSE OF REPRESENTATIVES



JOHN S. WILDER
SPEAKER OF THE SENATE

APPROVED this 13th day of June 2003



PHIL BREDEBEN, GOVERNOR